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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/816,764	03/23/2001	Michael V. Lowe	LOWM101	4770

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EXAMINER

NGO, LIEN M

ART UNIT PAPER NUMBER

3727

DATE MAILED: 01/23/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/816,764

Applicant(s)

LOWE ET AL. *JH*

Examiner

LIEN TM NGO

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 13-18 and 22-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4-6, 8-11 and 13-18 is/are allowed.
- 6) ☒ Claim(s) 1-3, 7, 23, 24, 27-29, 31, 32, 34, 35, 38, 41, 42 and 45-48 is/are rejected.
- 7) ☐ Claim(s) 22, 25, 26, 30, 33, 36, 37, 39, 40, 43, 44 and 49 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 12.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Claim Objections

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

It is incorrect that "Claim 19-22 have been deleted" because there is no claim 22 in the application. Therefore, in page 9, line 4 of the amendment filed 9/5/03 has been change -- claim 19-21 have been deleted--.

Misnumbered claims 23-50 have been renumbered 22-49, respectively.

In claim 26 now has been changed to claim 25, "The security holster of claim 23" has been changed to --The security holster of claim 22--.

In claim 27 now has been changed to claim 26, "The security holster of claim 23" has been changed to --The security holster of claim 22--.

In claim 30 now has been changed to claim 29, "The security holster of claim 29" has been changed to --The security holster of claim 28--.

In claims 34, 35, 36, 39, 40, 42, 44, 45 now have been changed to claims 33, 34, 35, 38, 39, 41, 43, 44, respectively, "The security holster of claim 33" has been changed to --The security holster of claim 32--.

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In claim 37 now has been changed to claim 36, "The security holster of claim 34" has been changed to --The security holster of claim 33--.

In claim 38 now has been changed to claim 37, "The security holster of claim 37" has been changed to --The security holster of claim 36--.

In claim 41 now has been changed to claim 40, "The security holster of claim 40" has been changed to --The security holster of claim 39--.

In claim 43 now has been changed to claim 42, "The security holster of claim 42" has been changed to --The security holster of claim 41--.

In claims 47, 48, 49, 50 now has been changed to claims 46, 47, 48, 49, respectively, "The security holster of claim 47" has been changed to --The security holster of claim 45--.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 28, 29, 41, 42 and 47 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In claim 28, 29, 41 and 42, the "tactile indication of locking" is not described in the specification. In claim 74, "said locking tab is configured ... holster body" is not described in the specification.

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4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 2, 3, 7 and 32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 2 and 3, "said locking means" lacks antecedent basis.

In claim 7, "said rebounding device" lacks antecedent basis.

In claim 32, line 12, "said handgun feature" lacks antecedent basis.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 2, 23, 24, 27 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Gallagher (5,518,155). Gallagher discloses, in figs. 1-5, a handgun holster comprising a locking tab 28 for preventing the withdrawal of said handgun, a releasing tab (finger rest 25) for releasing locking means by a user's index finger or forefinger (see col. 4, lines 51-61), a finger tube 70 surrounding said releasing means, a biasing spring 44, and the finger tube including a flared rim (see fig. 7). It is inherent that the locking means adapted to engage to a handgun with an audible

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indication as soon as the locking means engaging with the trigger guard when the handgun is inserted.

8. Claims 1-3, 23, 24, 32, 34, 35, 38, 45, 46 and 48 are rejected under 35 U.S.C. 102(b) as being anticipate by Franz (1,842,936). Franz discloses, a handgun holster comprising a locking tab 14 engaging with a ejection port of the handgun for preventing the withdrawal of said handgun, a releasing tab (see fig. 4) for releasing locking means by a user's index finger (a index finger is capable of releasing locking means, see fig. 4), a finger tube surrounding said releasing means, a biasing spring 13, and the finger tube including a flared rim. It is inherent that the locking means adapted to engage to a handgun with an audible indication as soon as the locking means engaging with the trigger guard ^{or the} when the handgun is inserted.

Allowable Subject Matter

9. Claims 4-6, 8-11 and 13-18 are allowed.
10. Claim 22, 25, 26, 30, 33, 36, 37, 39, 40, 43, 44 and 49 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

11. Applicant's arguments with respect to claims 1-3 and 22-49 have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant argues that Gallagher does not teach a locking release is contained within a finger tube which a user inserts his/her finger. However, it is not found

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convincing because examiner considers portion 70 (stove pipe) as the finger tube (as shown in fig. 3) in the Gallagher holster which surrounds the releasing tab 25, in which a user inserts a finger in order to activate the release tab to release the locking tab from the handgun feature.. No further limitation of the "finger tube" in the claimed invention that is defined differently from the Gallagher holster as applicant argues in the Remarks.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien Ngo whose telephone number is (703) 305-0294. The examiner can normally be reached Monday through Friday from 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful. The examiner's supervisor, Lee Young, can be reached at (703)308-2572. The Group FAX number is (703) 305-3579.

Any inquiry of a general nature or relating to the status of the application should be directed to the Group receptionist at (703) 308-1148.

Lien Ngo

January 16, 2004

